

REMARKS/ARGUMENTS

Initially, Applicant would like to express her appreciation to the Examiner for the detailed Official Action. In view of the Examiner's reopening of prosecution, Applicant elects to file a reply under 37 C.F.R. § 1.111. Upon entry of the amendment, claims 1, 6-7, 9, 11, 13, 18-19, 21, 23, 25-28, 30-31, 33, and 35 have been amended. Claims 5, 8, 10, 12, 17, 20, 22, 24, 29, 32, 34, and 36 have been cancelled. Thus, claims 1-4, 6-7, 9, 11, 13-16, 18-19, 21, 23, 25-28, 30-31, 33, and 35 are currently pending for consideration by the Examiner.

Claims 1-12 and 25-36 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 1-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over CROCKETT (U.S. Patent No. 5,590,188) in view of LEAMON (U.S. Patent No. 6,970,829 B1).

With regard to the rejection under 35 U.S.C. § 101, the Official Action asserts that claims 1-12 are directed to logic that lacks a tangible embodiment and, as such, are really directed to software. Additionally, the Official Action asserts that claims 25-36 are directed to code embodied in a computer readable medium that also lack a tangible embodiment and are really directed to software.

Amended claims 1-4, 6-7, 9, and 11 have been amended to remove all references to "logic". As amended, these claims are directed to the machine category of patent-eligible subject matter under 35 U.S.C. § 101. Additionally, currently pending claims 25-28, 30-31, 33, and 35 have been amended to be directed to a "tangible computer-readable medium encoded with a workforce planning system computer program," which represents statutory subject matter, per M.P.E.P. § 2106.1, Section I. Accordingly, Applicant respectfully requests that the rejection of the above cited currently pending claims under 35 U.S.C. § 101 be withdrawn.

Applicant traverses the rejection of claims 1-36 under 35 U.S.C. § 103(a) as being unpatentable over CROCKETT in view of LEAMON. In this regard, amended claims 1, 13, and 25 recite that the first call-history statistic is generated by and stored within the communication switch, that the first work-history statistic is generated and stored within the call center, and that a first work-planning input is processed together with the first past performance report in order to generate a forecast report comprising a first predictive workforce statistic.

With regard to independent claim 1, the Official Action construes CROCKETT's call routing processor (12) as a workforce management system. CROCKETT thus fails to disclose that his communication switch (14) generates and stores a first call-history statistic that is subsequently obtained by a workforce planning system, since CROCKETT's call routing processor (12) is cited for performing this function.

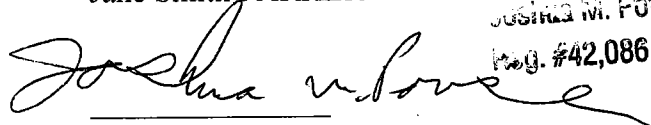
Additionally, the Official Action acknowledges that CROCKETT fails to disclose that his system generates a performance report comprising a first past performance statistic. However, the Official Action provides LEAMON as teaching the generation of such a report. Contrary to the Official Action's assertion, LEAMON fails to disclose, teach, or suggest the generation of a past performance report for a specific first (past) period of time. Instead of using actual acquired historical data to generate a past performance report as recited in claim 1, LEAMON's system is directed to simulating a call center by arbitrarily changing user-defined variables and then generating simulation reports. For instance, LEAMON's simulator is clearly referenced in his flowcharts 3A, 3B, and 4, in steps 16 and 16.2. See also LEAMON's column 9, lines 7-12.

Since LEAMON fails to disclose the generation of a past performance report, LEAMON naturally also fails to disclose the subsequent claim 1 provision of processing a first work-planning input together with the past performance report to generate a forecast report.

Accordingly, for at least the reasons discussed above, independent claim 1 would not have been obvious to one of ordinary skill in the art in view of CROCKETT and LEAMON at the time of the invention. Independent method claim 13 and computer-readable medium claim 25 have been similarly amended and are patentable for reasons similar to those stated above for independent claim 1. Claims 2-4, 6-7, 9 and 11; 14-16, 18-19, 21, and 23; and 26-28, 30-31, 33, and 35; which depend from independent claims 1, 13, and 25, respectively, are also patentable for at least the reasons stated above and further for the additional features recited therein.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims that have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Respectfully Submitted,
Jane Smith PARKER


Bruce H. Bernstein
Reg. No. 29,027

Joshua M. Povsner
Reg. #42,086

January 14, 2009
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191